



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

For substantially the reasons stated in the Government's May 26, 2021, letter (Dkt. No. 193), the conference schedule for **May 27, 2021**, (Dkt. No. 192) is **CANCELLED**.

BY ECF

The Honorable Lorna G. Schofield
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

So Ordered.

Dated: May 27, 2021
New York, New York

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *United States v. Stephen M. Calk*, S1 19 Cr. 366 (LGS)

Dear Judge Schofield:

The Government respectfully writes in response to the Court's Order of May 26, 2021 (Dkt. 192) and in advance of the May 27, 2021 telephone conference. The Government does not intend to rely at trial on any information designated "Secret," "Top Secret," or any other classification level.¹

Accordingly, in order to inform discussion at tomorrow's conference, the Government can provide the following information in response to the Court's topics of inquiry, following the numbering set forth in the Order:

1. The Government does not intend to present any classified information to jurors;
2. The Government does not seek to introduce any classified evidence, and accordingly there are no constraints for the storage and presentation of any such evidence;
3. No part of the trial will reveal classified information, and the Government does not seek to deny public access to any part of the trial;
4. Because this trial will not involve any classified evidence, the defendant and defense counsel do not need clearance to review any classified evidence;
5. The Government does not intend to disclose any classified evidence to the defense;

¹ The Government has never intended to convey to the Court that it intended "to rely at trial on information designated 'Secret,'" Dkt. 192 at 1, or "to rely at trial on information designated 'Top Secret,'" *id.*, and apologizes for any confusion in that regard.

6. The Government does not anticipate any trial proceedings reflecting classified information, and thus no court reporters need clearance for the purpose of recording trial proceedings;
7. The Government does not intend to offer any classified documents into evidence;
8. The Government does not intend to rely on Top Secret, or otherwise classified, materials.

The Government, as it has informed the Court and defense counsel, does intend to make a motion under the Classified Information Procedures Act (“CIPA”), 18 U.S.C. App. 3, seeking relief *not* regarding the introduction of classified evidence at trial. Under the procedures set forth in CIPA, the Government will provide the Court with more information regarding its requested relief.

We remain ready to answer any of the Court’s remaining unclassified questions at tomorrow’s conference.

Respectfully submitted,

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cc: Counsel of Record (via ECF)